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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,573	02/08/2001	Samuel Sergio Tenembaum		4194

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New York, NY 10021

EXAMINER

JASMIN, LYNDIA C

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/778,573

Applicant(s)

TENEMBAUM, SAMUEL SERGIO

Examiner

Lynda Jasmin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 28, 2004 has been entered.

Amendment filed September 3, 2004 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Talbort et al. (2002/0116312 A1).

Talbort et al. discloses a method of creating an online marketing environment (OLME) comprising the steps of providing a community of reverse credit auctions (via a reverse blind electronic credit auction) including borrowers and lenders connected to a

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computer network (via network 110) through their respective computing devices (via 102, 104, 106) in which each auction includes borrowers who presents a buyer's credit needs and collaterals and a subgroup of the lenders which may include all of the lenders, who analyze the auctions on a caveat emptor basis and compete to provide credit to the borrower in an auction by adjusting the interest rates offered to the borrower (as illustrated in the background of the invention, having an online loan marketplace where *lenders* bid for borrower's business and allow *borrowers* to choose among multiple loan offers including terms and *rates*).

Talbort et al. further discloses at least one of the lenders is one of an individual investors and a professional and non-professional investor (see page 4; box 0047). The at least one borrowers includes one of an entity having current access to the traditional asset based financial market (via borrowers bidding for financial institution's products). At least one or more support player connected to the network through a respective computing device (via client devices), the support player being an entity from the group consisting of: credit rating companies and personal credit rating companies (via credit report 302 is obtained from one, or more, of many credit reporting services).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Talbort et al. in view of Kocher (2003/0061150 A1).

As best understood, Talbort et al. discloses the elements of the claimed invention, but fails to explicitly the different type of auctions.

Kocher discloses the concept of having performing electronic transaction including Dutch (split) or English (bulk or split) auction (similar to e-Bay [109]), where borrowers further pertain to secondary market (via 20). The revenue sources are through pawn lending rates. Kocher further discloses that the loans are designed for credit card financing (via a collateralized credit card). Thus, one of ordinary skill in the art at the time the invention was made to have provided the online market of Talbort et al. to include the Dutch and English auction taught by Kocher in order to achieve a winning bid.

6. Claim 12, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Talbort et al. in view of Kaplan et al. (2002/0095369 A1).

Talbort et al. discloses the elements of the claimed invention, but fails to categorize the loans.

Kaplan et al. discloses the concept of having an electronic marketplace where bonds are submitted for an auction or PriceMatch.

From this teaching of Kaplan et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the electronic credit auction of Talbort et al. to include the categorized auction system taught by Kaplan et al. for the

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purpose of utilizing a recognized, independent and reputable transaction clearing entity to guarantee all trades executed on the system.

Response to Arguments

7. Applicant's arguments filed September 03, 2004 have been fully considered but they are not persuasive.

8. Applicant argues, "Talbot does not teach or even remotely suggest the invention "that at least one of the lenders is one of an individual investor and a non-professional investor." The examiner respectfully disagrees. It is the Examiner's positions that Talbot discloses that a lender is not necessarily a traditional bank, a lender can also includes a *private equity provider*, thus can be at least one of an individual investor or a non-professional investor.

Conclusion

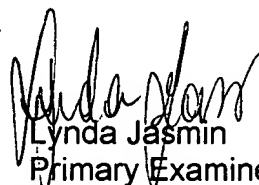
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ward et al. discloses an investment services architecture provides a suite of investment management tools and services to investors via the Internet or other data communication network. The architecture includes an investment services hosting site that offers investment services to investors who access the services via the Internet using various investor-computing devices. As part of the offering, the investment services hosting site allows individual investors to create and manage virtual investment portfolios that can be objectively ranked by performance.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (703) 305-0465. The examiner can normally be reached on Monday- Friday (8:00-5:30) alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lynda Jasmin
Primary Examiner
Art Unit 3627
11/11/04

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